

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

DWAYNE B., by his next friend, John Stempfle; CARMELA B., by her next friend William Ladd; LISA J., by her next friend, Teresa Kibby; and JULIA, SIMON, and COURTNEY G., by their next friend, William Ladd; for themselves and others similarly situated,

Plaintiffs,

v

GRETCHEN WHITMER, in her official capacity as Governor of the State of Michigan, *et al.*,

Defendants.

No. 2:06-cv-13548

HON. NANCY G. EDMUNDS

Class Action

**STIPULATED ORDER
AMENDING THE MODIFIED
IMPLEMENTATION,
SUSTAINABILITY AND EXIT
PLAN (MISEP)**

**STIPULATED ORDER AMENDING THE MODIFIED
IMPLEMENTATION, SUSTAINABILITY AND EXIT PLAN
(MISEP)**

WHEREAS the parties engaged in negotiations over the last eight months to amend the Modified Implementation, Sustainability, and Exhibit Plan (MISEP, ECF No. 294);

WHEREAS, with the assistance of the monitoring team, Kevin Ryan and Eileen Crummy, and Magistrate Judge David R. Grand, the parties agreed to modify the MISEP as set forth below; and

WHEREAS the parties submit this stipulation to codify the agreed amendments to the MISEP and seek the Court's entry of the below Stipulated Order.

IT IS HEREBY STIPULATED AND AGREED by and between the parties that the MISEP shall be amended as follows:

1. The following provisions exit the MISEP and this Court's jurisdiction upon entry of this order: 4.3, 4.4, 4.6, 4.9, 4.10, 4.11, 4.12, 4.13, 4.14, 4.15, 4.16, 4.17, 4.18, 4.20, 4.21, 4.23, 4.25, 4.26, 4.27, 4.28, 4.30, 5.2, 6.11, 6.12(b), 6.16, 6.17, 6.18, 6.21, 6.27, 6.28, 6.31, 6.36(a), and 6.36(b).

2. The following provisions move to Section 4, Structures and Policies, and remain subject to the Court's jurisdiction pursuant to the terms of the MISEP, upon entry of this order: 5.3, 5.4, 5.5, 5.6, 5.7, 6.5, 6.7, 6.12(a), 6.13, 6.14, and 6.35.

3. The following provision shall become eligible to immediately exit the MISEP and the Court's jurisdiction after two consecutive periods of positive trending in validated performance from the baseline measure reported in the Court Monitor's report for MISEP Period 23: 6.6(a).

4. The following provision shall become eligible to immediately exit the MISEP and the Court's jurisdiction after one period of positive trending in validated performance from the baseline measure reported in the Court Monitor's report for MISEP Period 23: 6.37.

5. The following provision shall become eligible to immediately move to Section 4, Structures and Policies, and remain subject to the Court's jurisdiction pursuant to the terms of the MISEP, after two consecutive periods of positive trending in validated performance from the baseline measure reported in the Court Monitor's report for MISEP Period 23: 6.15.

6. The Designated Performance Standard for the following provisions shall be reduced to 90%, and the provisions shall become eligible to immediately exit the MISEP and the Court's jurisdiction after two consecutive periods of compliance with the modified Designated Performance Standard: 6.30(a)(1), 6.30(a)(2), and 6.30(a)(3).

7. MISEP Provision 6.3 is amended to read:

6.3 – Permanency in Twelve Months

DHHS will develop strategy plans to be implemented in each of certain selected counties, covering at least 20% of the foster care population and at DHHS's choosing from within the Big 14 counties of the State, to improve the rate of

permanency for children within their first 12 months in foster care.

The strategy plan will focus on identified needs and barriers to be addressed in the respective counties in order to improve the rate of permanency for children within their first 12 months in foster care, such as court delays, parenting time, service array, father engagement, foster parent support, placement disruption, and family resources among other such factors to be identified by DHHS. The strategy plan will include a description of the specific strategies to be implemented to improve permanency and set forth implementation action steps with timelines, identify lead staff responsible for implementation and articulate the intended outcomes of each strategy.

DHHS will provide a copy of the strategy plan for each county to the monitoring team within 30 days of execution of this Stipulation. DHHS may thereafter modify the strategies contained in the plans during the 12-month implementation period, beginning January 1, 2024, as it deems appropriate. DHHS shall provide an updated strategy plan, containing the elements as described above, to the monitoring team within 30 days of any modification(s).

By October 1, 2025, DHHS shall provide a Permanency within 12 Months Report to the monitoring team that shall include:

- the aggregate 12-month permanency rate for the children who entered foster care within the first 6 months of the previous period (January 1, 2023 – June 30, 2023) in the selected counties;
- the aggregate 12-month permanency rate for the children who entered foster care within the first 6 months of the period under review (January 1, 2024 – June 30, 2024) in the selected counties;

- a summary of DHHS's efforts and strategies to improve permanency in the selected counties and data demonstrating any progress achieved.

Based on the above DHHS report, the monitoring team shall determine if DHHS made good faith efforts to improve the rate of permanency within 12 months in the selected counties. Positive trending in the aggregate permanency rate over the 12-month period shall be deemed to show that DHHS has made good faith efforts to improve permanency in the selected counties. Negative trending in the permanency rate over the 12-month period shall not, alone, be considered to show a lack of good faith efforts but will be considered by the monitors together with all relevant factors.

If DHHS is found to have made good faith efforts, this provision 6.3 shall exit court jurisdiction. Failure by DHHS to achieve a finding of good faith efforts will require an additional implementation period as described herein.

8. Consistent with MISEP Provision 4.2, MISEP Provision 6.1 is amended such that DHHS will maintain an observed rate of victimization per 100,000 days in foster care less than 9.07, utilizing the CFSR Round 4 criteria.

IT IS SO ORDERED.

Dated: January 25, 2024

s/ Nancy G. Edmunds
HON. NANCY G. EDMUNDS
United States District Judge

Stipulated and Agreed to by:

Samantha Bartosz (with permission)

Date: January 24, 2024

Samantha M. Bartosz (P486946)

Attorney for Plaintiffs

/s/ Neil A. Giovanatti

Date: January 24, 2024

Neil A. Giovanatti (P82305)

Erin E. Harrington (P71394)

Attorneys for Defendants